
OLR Bill Analysis

HB 6373

AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND.

SUMMARY:

This bill authorizes the Department of Emergency Services and Public Protection (DESPP) commissioner, upon the chief state's attorney's approval, to enter into separate memoranda of agreement with the Mohegans and Mashantucket Pequots to establish the authority of each tribe's police department and police officers to exercise law enforcement powers, subject to training and certification by the Police Officer Standards and Training (POST) Council. It gives the commissioner and chief state's attorney joint authority to revoke the memorandum. They can enter into and revoke the agreements notwithstanding an existing law that requires the legislature to execute and approve compacts between the tribes and state.

The bill broadens the definition of "law enforcement unit" to include any agency, organ, or department "created" and governed under each memorandum and whose primary functions are to enforce criminal and traffic laws, prevent and investigate crime, and protect life and property. The bill also broadens the definition of "peace officer" to include members (1) of the law enforcement unit created and governed by the memorandum and (2) certified by the POST Council. By law, peace officers have certain powers regarding arrests and use of force, among others.

EFFECTIVE DATE: Upon passage

LAW ENFORCEMENT UNIT

The bill expands the definition of law enforcement unit to include a unit "created and governed" under the separate agreements between the state and the tribes. The POST Council has the power (1) at the request and expense of any law enforcement unit, to conduct general

specific management surveys; (2) to develop accreditation standards and accredit law enforcement units; and (3) inspect law enforcement units for compliance with council requirements. Because the bill applies to departments created under the memoranda and the tribal departments already exist, it is unclear what powers the council will have under the agreement.

BACKGROUND

Compact Approval

The law requires the legislature to approve any compact or compact amendment executed between Connecticut and another state or an Indian tribe before it can be implemented. Approval must be by a majority vote of each house within specified deadlines; either house can reject.

Peace Officers

The law designates the following as peace officers: state and local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution, investigators in the State Treasurer's Office, and federal narcotics agents.

Use of Physical Force. Peace officers are justified in using physical force, when and to the extent they reasonably believe it necessary, to (1) make an arrest or prevent a custodial escape, unless they know that the arrest or custody is unauthorized, or (2) defend themselves or someone else from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

Use of Deadly Physical Force. Peace officers are justified in using deadly physical force when they reasonably believe it is necessary to (1) defend themselves or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from

custody of someone whom he or they reasonably believe committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, they warned of the intent to use deadly physical force (CGS § 53a-22(c)).

Duty to Retreat. The law exempts peace officers from the general duty to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

Resisting Arrest. The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal (CGS § 53a-23).

Arrest Powers. Peace officers, when in their town, can arrest, without a warrant, any person for an offense when the person is taken or apprehended in the act or on the speedy information of others. Outside of their town, they can arrest someone (1) for a felony, without a warrant, at any time or (2) when in immediate pursuit from their town and they could legally arrest the person under their authority (CGS § 54-1f).

Police Officer Standards and Training Council

The council (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying them.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable

Yea 23 Nay 0 (03/07/2013)